



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/511,766

10/19/2004

Peter Clive Bridges

04-870

6029

20306

7590

06/29/2006

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

EXAMINER

ALI, SHUMAYA B

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,766

Applicant(s)

BRIDGES ET AL.

Examiner

Shumaya B. Ali

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/19/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>detailed action</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4, 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Tischer et al US Patent No. 6,328,031**

3. **Tischer et al. disclose hood and face mask assembly (110) in figures 12 and 13. With respect to claim 1, Tischer et al. disclose a first sub-assembly (113) adapted to be worn on the head and including a seal (123) adapted to seal around the periphery of the user's face when worn, and a second sub-assembly (112) separable from the first subassembly but selectively co-operable therewith (see col.2 line 36-38, "hood is detachably connected face mask so as to secure the annular edge of the hood in the annular recess of the face mask", see also col.9 lines 18-22, "face mask can be attached to the firefighting hood before donning them. The firefighter can then re-don his firefighting helmet without disrupting the operative relationship of the firefighting hood to the face mask"), the second subassembly comprising a face piece (112) adapted to co-operate with the first sub assembly to define therewith a facial cavity (116) bounded by said seal, an inlet (118) connectable to a source of breathing gas for supply (col.6 lines 23-25 "a channel 118 for providing fluid communication between the breathing chamber of the brace Mask and a breathing apparatus") to the user, and an outlet () for the exhaustion of exhaled gas from the user.**

Art Unit: 3743

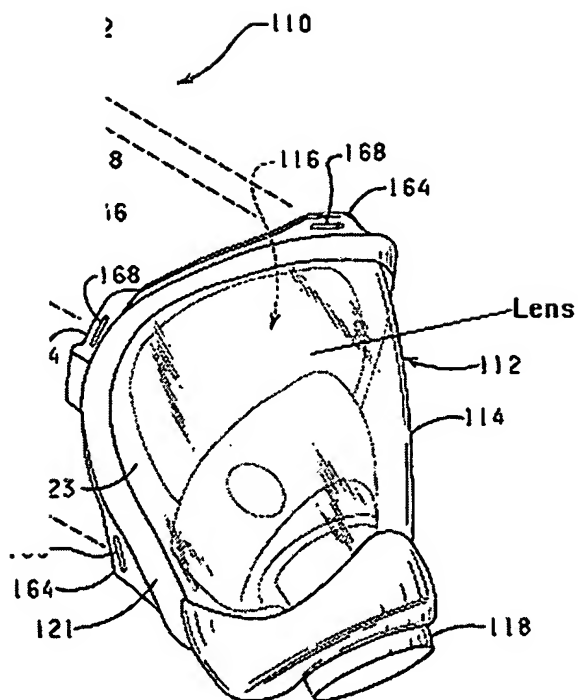
4. **With respect to claim 2, Tischer et al. disclose** wherein the first and second sub-assemblies are completely separable whereby the first sub-assembly can be worn alone, the second sub-assembly being demountably attachable to the first-subassembly (see col.2 line 36-38, **“hood is detachably connected face mask so as to secure the annular edge of the hood in the annular recess of the face mask”**, see also col.9 lines 18-22, **“face mask can be attached to the firefighting hood before donning them. The firefighter can then re-don his firefighting helmet without disrupting the operative relationship of the firefighting hood to the face mask”**).

5. **With respect to claim 3, Tischer et al. disclose** wherein the first sub-assembly comprises headgear (174) including a substantially rigid ring structure (147) adapted to be juxtaposed to the user's face when the headgear is donned and from which said seal extends to engage around the periphery of the user's face, the second sub-assembly being configured to be mounted to said ring structure and secured thereto by at least one releasable fastener (176).

6. **With respect to claim 4, Tischer et al. disclose** wherein the second sub-assembly is articulated to the first sub assembly (as seen in figure 13)

7. **With respect to claim 6, Tischer et al. disclose** wherein the second sub assembly includes an oronasal mask (as seen in figures 12 and 13) to be disposed within said facial cavity.

8. **With respect to claim 7, Tischer et al. disclose** wherein said face piece including a demountable lens portion (see labeled fig.13)



Prior Art

U.S. Patent
US 6,328,031 B1

FIG. 13

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3743

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. **Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tischer et al. US Patent No. 6,328,031**


12. **With respect to claim 5, Tischer et al. however do not disclose** wherein the first sub-assembly comprises headgear in the form of a flexible hood of air-permeable material, however “Nomex” (see col.6 lines 65-67) material as disclosed by Tischer et al. is considered air permeable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-F 8:30-4:30.

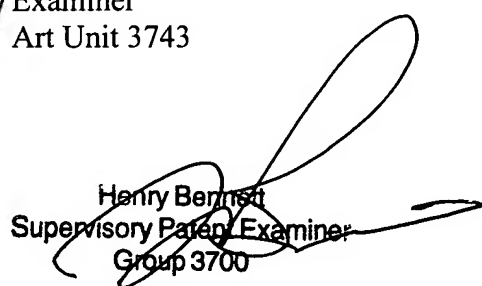
If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Shumaya B Ali
Examiner
Art Unit 3743



Henry Bernstein
Supervisory Patent Examiner
Group 3700